

US House of Representatives, Subcommittee on Cybersecurity and Infrastructure Protection

Hearing Entitled: Industry Views on the CFATS Program

Testimony by Kirsten Meskill on behalf of the American Chemistry Council

10:00 am Feb. 15, 2018, 210 House Visitors Center

Kirsten Meskill is the Director of Corporate Security, for BASF Corporation. BASF Corporation is headquartered in Florham Park, New Jersey with over 100 production facilities in 28 states and more than 17,000 employees in North America. The largest sites are located in Geismar, Louisiana and Freeport, Texas. Kirsten is the immediate past Chairperson of the Chemical Sector Coordinating Council and the current Chairperson of the Security Committee of the American Chemistry Council (ACC).

ACC offers general support for long-term reauthorization of the Chemical Facility Anti-Terrorism Standards (CFATS). ACC member companies manufacture products that are critical to the everyday health and well-being of our nation and essential to developing a more sustainable and more competitive economy. Because of our critical role in the nation's economy and our responsibility to our employees and communities, security is a top priority for my company and for ACC member companies.

In 2001, ACC created a stringent, mandatory security program called the Responsible Care[®] Security Code. Since the program was created, ACC members have invested more than \$17 billion under the Security Code to further enhance site security, transportation security and cybersecurity at their facilities. The Security Code has become a gold standard for the industry and serves as a model for regulatory programs.

The business of chemistry is a \$768 billion enterprise that provides more 800,000 skilled, good-paying American jobs. I am happy to report that chemical manufacturing is experiencing a renaissance in the United States thanks to the increase in domestic shale gas production. In fact, ACC has identified more than 300 new capital investment projects that are worth more than \$185 billion, which will add thousands of jobs and generate billions of dollars in economic activity. Ensuring that clear and workable federal programs such as CFATS remain in place is an important part of establishing the stable regulatory environment needed to foster these new investments.

Over the past four years, the Department of Homeland Security (DHS) has significantly improved its administration of the CFATS program, which has had a positive impact on enhancing security at chemical facilities. Several factors have led to the recent success of CFATS program, including better site inspections and a more streamlined authorization process. Most

importantly, DHS leadership has demonstrated a commitment to working with members of the regulated community to improve the implementation of the CFATS program.

While DHS has made considerable strides to improve the CFATS program, more work needs to be done.

1. Improve transparency in DHS risk determinations. DHS should be more transparent with facility operators regarding what is driving risk determinations for establishing how facilities fall into a certain tier level and potentially what they may consider to reduce that risk or even eliminate it all together. More often than not, facility operators are left in the dark as to why they are tiered at a specified level, when in fact it is the operator who has the overall responsibility and authority for making security risk management decisions for that facility.

2. Reconsider the value of TSDB Screening at low risk facilities. Over the past year, DHS has been implementing Risk Based Performance Standard 12(iv) at 200 High Risk Facilities, Tiers 1 and 2. This process requires facility operators to collect sensitive personal information from thousands of employees and contractors and send that information to DHS for vetting against the Terrorist Screening Database (TSDB). Now DHS is planning to extend the program to an additional 3,700 low risk Tier 3 and 4 facilities involving tens of thousands of employees and contractors personal information. ACC and its members are concerned that such an expansion is unnecessary and will put people's personal information at risk. It is not clear that the benefit associated with the TSDB vetting is worth the cost and risk. While we support TSDB vetting at high risk Tier 1 and 2 facilities we want DHS to reconsider this requirement for lower risk Tier 3 and 4 facilities.

3. Establish a CFATS Public/Private Partnership. DHS should leverage the benefits of CFATS and Industry Stewardship Programs, such as the ACC Responsible Care Program, with the goal of further enhancing the safety and security of hazardous chemicals. By doing so, DHS would be able to recognize responsible operators for going beyond mere regulatory compliance and incentivize the use of chemical security programs that enhance security beyond the universe of CFATS regulated facilities.

CFATS has helped make our industry and communities more secure. It's a program that will grow stronger by adopting the improvements outlined in my testimony and by the continued engagement of this Committee to make sure CFATS stays on track.

ACC and its members encourage you to support this important program and make the improvements that are needed to take CFATS to the next level while providing DHS with the appropriate Congressional oversight and guidance.